

Executive Summary – Enforcement Matter – Case No. 43670

Aqua Utilities, Inc.

RN101519668

Docket No. 2012-0480-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Brittmore WW Plant III, located approximately 0.75 mile southwest of the intersection of West Little Rock (Fisher) Road and Brittmore Road, Harris County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 20, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$30,482

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$30,482

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 43670
Aqua Utilities, Inc.
RN101519668
Docket No. 2012-0480-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: February 7, 2012
Date(s) of NOE(s): February 24, 2012

Violation Information

Failed to comply with permitted effluent limits for *escherichia coli* and ammonia nitrogen [Texas Pollutant Discharge Elimination System Permit No. WQ0014117001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of Permit No. WQ0014117001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Robert Laughman, President, Aqua Utilities, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania 19010
Nicholas Debenedictis, Director, Aqua Utilities, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania 19010
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES

Assigned
PCW

27-Feb-2012

1-Mar-2012

Screening

27-Feb-2012

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Aqua Utilities, Inc.

Reg. Ent. Ref. No. RN101519668

Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 43670

Docket No. 2012-0480-MWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 2

Order Type Findings

Government/Non-Profit No

Enf. Coordinator Jorge Ibarra, P.E.

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

37.0%

Enhancement

Subtotals 2, 3, & 7

\$1,295

Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations and six months of self-reported effluent violations.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$0

Economic Benefit

0.0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$544

Approx. Cost of Compliance \$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$4,795

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$4,795

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$4,795

DEFERRAL

0.0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$4,795

Screening Date 27-Feb-2012

Docket No. 2012-0480-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43670

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101519668

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 37%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations and six months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 27-Feb-2012

Docket No. 2012-0480-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43670

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101519668

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014117001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the month of July 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$544

Violation Final Penalty Total \$1,370

This violation Final Assessed Penalty (adjusted for limits) \$1,370

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 43670
Reg. Ent. Reference No. RN101519668
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Jul-2011	1-Aug-2012	1.09	\$544	n/a	\$544

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure compliance with permit effluent limits.
 Date required is the first date of non-compliance, final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$544

Screening Date 27-Feb-2012

Docket No. 2012-0480-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43670

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101519668

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0014117001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended for the month of August 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,425

This violation Final Assessed Penalty (adjusted for limits) \$3,425

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 43670
Reg. Ent. Reference No. RN101519668
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

TCEQ DATES	Assigned	27-Feb-2012	Screening	27-Feb-2012	EPA Due	
	PCW	1-Mar-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Utilities, Inc.
Reg. Ent. Ref. No.	RN101519668
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION	
Enf./Case ID No.	43670
Docket No.	2012-0480-MWD-E
Media Program(s)	Water Quality
Multi-Media	
No. of Violations	2
Order Type	Findings
Government/Non-Profit	No
Enf. Coordinator	Jorge Ibarra, P.E.
EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0
Maximum	\$25,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$18,750
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	37.0%	Enhancement	Subtotals 2, 3, & 7
Notes	Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations and six months of self-reported effluent violations.		\$6,937
Culpability	No	0.0%	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.		\$0
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0%	Enhancement*	Subtotal 6
Total EB Amounts	\$0	*Capped at the Total EB \$ Amount	\$0
Approx. Cost of Compliance	\$0		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$25,687
OTHER FACTORS AS JUSTICE MAY REQUIRE		0.0%	Adjustment
Reduces or enhances the Final Subtotal by the indicated percentage.			\$0
Notes			Final Penalty Amount
			\$25,687
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$25,687
DEFERRAL	0.0%	Reduction	Adjustment
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	No deferral is recommended for Findings Orders.		\$0
PAYABLE PENALTY			\$25,687

Screening Date 27-Feb-2012

Docket No. 2012-0480-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 43670

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101519668

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 37%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations and six months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 37%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 37%

Screening Date 27-Feb-2012

Docket No. 2012-0480-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 43670

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101519668

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014117001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Escherichia coli values were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$15,000

Two monthly events are recommended for the months of October and November 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$20,550

This violation Final Assessed Penalty (adjusted for limits) \$20,550

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 43670
Reg. Ent. Reference No. RN101519668
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1 on the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 27-Feb-2012

Docket No. 2012-0480-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 43670

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101519668

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0014117001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. E. coli values were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of December 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,138

This violation Final Assessed Penalty (adjusted for limits) \$5,138

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 43670
Reg. Ent. Reference No. RN101519668
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1 on the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Aqua Utilities, Inc.
Texas Pollutant Discharge Elimination System Permit No. WQ0014117001
RN101519668; DOCKET NO. 2012-0480-MWD-E; Case No. 43670

<i>EFFLUENT PARAMETER</i>					
<i>Permit Limit</i>					
	E. coli Daily Average Concentration	E. coli Daily Maximum Concentration	NH ₃ N Daily Average Concentration	NH ₃ N Daily Average Loading	NH ₃ N Daily Maximum Concentration
<i>Month/Year</i>	63 CFU/100 ml	197 CFU/100 ml	2 mg/L	15 lb/d	10 mg/L
July 2011	c	361	c	c	c
August 2011	c	1986	c	c	c
October 2011	1365	2420	c	c	c
November 2011	c	c	16.56	63.81	24.42
December 2011	c	1733	3.46	c	10.54

ml = milliliters mg/L = milligrams per liter CFU = colony forming unit c = compliant
lb/d = pounds per day *Escherichia coli* = E. coli ammonia nitrogen = NH₃N

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602787509	Aqua Utilities, Inc.	Classification: AVERAGE	Rating: 1.88
Regulated Entity:	RN101519668	BRITTMORE WW PLANT III	Classification: AVERAGE	Site Rating: 0.28
ID Number(s):	WASTEWATER	PERMIT	WQ0014117001	
	WASTEWATER	EPA ID	TX0119571	
Location:	Located approximately 0.75 mile southwest of the intersection of West Little Rock (Fisher) Road and Brittmore Road in Harris County, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	February 28, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 28, 2007 to February 28, 2012			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 03/22/2007 | (631873) |
| 2 | 04/24/2007 | (631874) |
| 3 | 05/22/2007 | (631875) |
| 4 | 06/22/2007 | (631876) |
| 5 | 07/20/2007 | (631877) |
| 6 | 08/29/2007 | (631878) |
| 7 | 09/24/2007 | (631879) |
| 8 | 10/15/2007 | (631881) |
| 9 | 11/12/2007 | (631883) |
| 10 | 12/14/2007 | (631885) |
| 11 | 01/17/2008 | (631887) |
| 12 | 02/18/2008 | (677412) |
| 13 | 03/17/2008 | (677413) |
| 14 | 04/17/2008 | (677414) |

15	05/19/2008	(696127)
16	06/16/2008	(696128)
17	07/17/2008	(696129)
18	08/26/2008	(717772)
19	09/26/2008	(717773)
20	10/20/2008	(717774)
21	11/17/2008	(733093)
22	01/13/2009	(733094)
23	02/20/2009	(756266)
24	03/17/2009	(756267)
25	04/14/2009	(756268)
26	12/18/2008	(756269)
27	05/14/2009	(773238)
28	06/12/2009	(773239)
29	01/04/2010	(783496)
30	02/17/2010	(819856)
31	07/22/2009	(819857)
32	09/01/2009	(819858)
33	09/18/2009	(819859)
34	10/16/2009	(819860)
35	11/16/2009	(819861)
36	12/21/2009	(819862)
37	01/18/2010	(819863)
38	03/16/2010	(836208)
39	04/19/2010	(836209)
40	05/18/2010	(836210)
41	06/14/2010	(847913)
42	07/19/2010	(862326)
43	08/18/2010	(868943)
44	09/17/2010	(875795)
45	10/18/2010	(883374)
46	11/12/2010	(889767)
47	12/17/2010	(898134)
48	01/17/2011	(904036)
49	02/17/2011	(910914)
50	03/14/2011	(930638)
51	04/20/2011	(930639)
52	05/18/2011	(939895)
53	06/16/2011	(947303)
54	07/20/2011	(954566)
55	11/18/2011	(958163)
56	08/19/2011	(961149)
57	09/20/2011	(967240)
58	10/19/2011	(973202)
59	11/17/2011	(979338)
60	02/24/2012	(983898)
61	12/20/2011	(986167)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	9/30/2008	(717774)	CN602787509	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/04/2010	(783496)	CN602787509	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Description:	Failure to properly operate the chlorine contact basin.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Description:	Failure to properly operate the clarifiers.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d)			
Description:	Failure to accurately measure to peak flow of the facility.			
Date	07/31/2011	(961149)	CN602787509	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2011	(967240)	CN602787509	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2011	(979338)	CN602787509	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/18/2011	(958163)	CN602787509	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)			
Description:	Failure to annually certify the backflow preventer.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations and Monitoring Req. PERMIT			
Description:	Failure to maintain compliance with permitted effluent limits.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitations and Monitoring Req. PERMIT			
Description:	Failure to maintain compliance with permitted effluent limits.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.5(a)			
Description:	Failed to collect effluent grab samples in proper location.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Description:	Failure to operate a functioning lift station alarm.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
Description:	Failed to properly operate the chlorine contact basin.			
Date	11/30/2011	(986167)	CN602787509	
Self Report?	YES		Classification:	Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2011

CN602787509

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA UTILITIES, INC.
RN101519668**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0480-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately 0.75 mile southwest of the intersection of West Little Rock (Fisher) Road and Brittmore Road in Harris County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on February 7, 2012, TCEQ staff documented that the Respondent did not comply with permitted effluent limits as shown in the table below:

EFFLUENT PARAMETER					
Permit Limit					
	E. coli Daily Average Concentration	E. coli Daily Maximum Concentration	NH ₃ N Daily Average Concentration	NH ₃ N Daily Average Loading	NH ₃ N Daily Maximum Concentration
<i>Month/Year</i>	63 CFU/100 ml	197 CFU/100 ml	2 mg/L	15 lb/d	10 mg/L
July 2011	c	361	c	c	c
August 2011	c	1986	c	c	c
October 2011	1365	2420	c	c	c
November 2011	c	c	16.56	63.81	24.42
December 2011	c	1733	3.46	c	10.54

ml = milliliters mg/L = milligrams per liter CFU = colony forming unit c = compliant
lb/d = pounds per day *Escherichia coli* = E. coli ammonia nitrogen = NH₃N

4. The Respondent received notice of the violations on February 29, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014117001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Thirty Thousand Four Hundred Eighty-Two Dollars (\$30,482) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Thirty Thousand Four Hundred Eighty-Two Dollar (\$30,482) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Thirty Thousand Four Hundred Eighty-Two Dollars (\$30,482) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2012-0480-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of Permit No. WQ0014117001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

9/25/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Aqua Utilities, Inc. I am authorized to agree to the attached Agreed Order on behalf of Aqua Utilities, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Aqua Utilities, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

AB

Signature

May 1, 2012
Date

ROBERT LAUGHMAN
Name (Printed or typed)
Authorized Representative of
Aqua Utilities, Inc.

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.